

(d)(iv)(3) "Those affidavits are not deemed to shed light on the state of the art and enablement *at the time* the invention was made."

Moreover, in applicant's response dated May 14, 1998, applicants refer to Poole et al. which states at page 59 thereof "[c]opper oxide superconductors with a parity sufficient to exhibit zero resistivity or to demonstrate levitation (Early) are not difficult to synthesize. We believe that this is at least partially responsible for the explosive worldwide growth in these materials" (see applicant's response for the entire text that is quoted and Attachment A thereof for copies of relevant pages from Poole et al.)

In response the Examiner states:

(1) Initially, however, it should be noted that the Poole article was published *after* the priority date presently claimed. As such, it does not provide evidence of the state of the art *at the time* the presently claimed invention was made.

(2) Moreover, the present claims are directed to processes of using metal oxide superconductors, not processes of making them. Even if the Poole article provided direct evidence of the state of the art at the time the invention was made, which it apparently does not, that evidence still does not pertain to the issue at hand, namely, the process of using metal oxide superconductors to conduct electricity under superconducting condition.

Applicants respectfully disagree with the Examiner. In further support of applicants position that all their claims are fully enabled, applicant's submit herewith the affidavit under 37 CFR 1.132 of Peter Duncombe which provides a list of books and articles published prior to applicants filing date showing the general principles of ceramic science used by applicants and which are used as stated by Poole et al. to make the

high Tc superconductors taught and claimed by applicants which "are not difficult to synthesize."

The affidavit of Peter Duncombe provides complete copies of two of his notebooks in which he sets forth particular facts in which he recorded the synthesis and properties of high Tc superconducting materials fabricated according to the general principles of ceramic science as taught by applicants.

Applicants submitted by facsimile an affidavit of James W. Leonard on December 15, 1998 which states that 5,689 articles cited the applicants' Zeitschrift fur Physik B- Condensed Matter, 64, pp. 189-193 (Sept. 1986) article. It cost \$2.50 per citation to print each citation for a total cost of \$14,222.50. Applicants will supply this list at the USPTO's request.

In view of the changes to the claims and the remarks herein, the Examiner is respectfully requested to reconsider the above-identified application. If the Examiner wishes to discuss the application further, or if additional information would be required, the undersigned will cooperate fully to assist in the prosecution of this application.

Please charge any fee necessary to enter this paper to deposit account 09-0468.

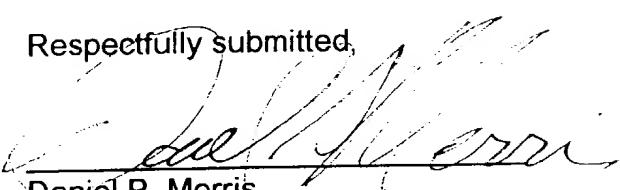
If the above-identified Examiner's Action is a final Action, and if the above-identified application will be abandoned without further action by applicants, applicants file a Notice of Appeal to the Board of Appeals and Interferences appealing the final rejection of the claims in the above-identified Examiner's Action. Please charge deposit account 09-0468 any fee necessary to enter such Notice of Appeal.

In the event that this amendment does not result in allowance of all such claims, the undersigned attorney respectfully requests a telephone interview at the Examiner's earliest convenience.

MPEP 713.01 states in part as follows:

Where the response to a first complete action includes a request for an interview or a telephone consultation to be initiated by the examiner, ... the examiner, as soon as he or she has considered the effect of the response, should grant such request if it appears that the interview or consultation would result in expediting the case to a final action.

Respectfully submitted,



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